

**Iowa Department of Natural Resources
Natural Resources Commission**

ITEM

15

DECISION

TOPIC

**Adopted and Final Notice, Chapter 7 – Rules of Practice in
Contested Cases**

The Natural Resource Commission's approval is requested for the attached Adopted and Filed Notice, which will rescind 571 Iowa Administrative Code (IAC) Chapter 7, "Rules of Practice in Contested Cases," and adopt by reference a new version of Chapter 7. The Department has adopted these rules at 561 IAC Chapter 7 as the Director's rules pursuant to Iowa Code section 455A.4; the Commission's proposed rules at 571 IAC Chapter 7 will incorporate by reference those rules pursuant to its authority under Iowa Code section 455A.5.

Chapter 7 contains the procedural rules for contested cases. The new version of these rules clarifies some of the procedural issues that have arisen in the past on a recurring basis and provides a better framework with which to deal with those issues.

A Notice of Intended Action to rescind and replace 571 IAC Chapter 7 was published in the Iowa Administrative Bulletin on July 4, 2007, as ARC 6004B. No public comments were received regarding the proposed rulemaking, and no changes have been made since the Notice of Intended Action was published.

Previously, the Director's rules found at 561 IAC Chapter 7 were rescinded and replaced. On September 27, 2006, the Department published a Notice of Intended Action to rescind and replace 561 IAC Chapter 7 in the Iowa Administrative Bulletin. No comments were received on that proposed rulemaking. The Department published an Adopted and Filed Notice for rescission and replacement of 561 IAC Chapter 7 in the Iowa Administrative Bulletin on January 31, 2007. The new version of 561 IAC Chapter 7 became effective on March 7, 2007.

In addition to the department's legal staff, an administrative law judge from the Department of Inspection and Appeals and a group of volunteer attorneys who are members of the Iowa State Bar Association reviewed the new version of Chapter 7.

Attachment

Linda Hanson, Administrator
Management Services Division
November 8, 2007

NATURAL RESOURCES COMMISSION[571]

Adopted and Final Notice

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3 and 455A.5, the Natural Resources Commission of the Department of Natural Resources hereby rescinds Chapter 7, “Rules of Practice in Contested Cases,” Iowa Administrative Code, and adopts a new Chapter 7 with the same title.

Chapter 7 contains the procedural rules for contested cases. A Notice of Intended Action to rescind and replace 571 IAC chapter 7 was published in the Iowa Administrative Bulletin on July 4, 2007, as ARC 5897B. No public comments were received regarding the proposed rulemaking, and no changes have been made since the Notice of Intended Action was published.

This rule making adopts by reference the new version of 561—Chapter 7 that became effective March 7, 2007. On September 27, 2006, a Notice of Intended Action was published in the Iowa Administrative Bulletin as ARC 5385B to rescind 561—Chapter 7 and to adopt a new version of Chapter 7. No comments were received, and the Adopted and Filed rule making was published in the Iowa Administrative bulletin on January 31, 2007, as ARC 5693B.

The new version of 561—Chapter 7 addresses procedural issues that have arisen in the past on a recurring basis. It also clarifies the procedural practices of the Department. The new version of Chapter 7 was reviewed by an administrative law judge from the Department of Inspections and Appeals and by a group of volunteer attorneys who are members of the Iowa State Bar Association.

This amendment is intended to implement Iowa Code sections 17A.3, 17A.12 to 17A.18 and 455A.5.

The following amendment is proposed.

Rescind 571—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7 RULES OF PRACTICE IN CONTESTED CASES

571—7.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 7, Iowa Administrative Code.

This rule is intended to implement Iowa Code sections 17A.3 and 17A.12 to 17A.18.